

FAIRFAX COUNTY CIRCUIT COURT

EXPUNGEMENT

PROCEDURE

GUIDELINE

FAIRFAX COUNTY CIRCUIT COURT EXPUNGEMENT PROCEDURE GUIDELINE

EXPUNGEMENT- CHANCERY

An action to delete all police and court records pertaining to a criminal case when any of the following has occurred: acquittal, nolle prosequi, dismissal, absolute pardon, or an individual's name used in error. When a record is expunged, the record is not destroyed but removed from public access and sealed. (Please Note that once the record is expunged it can only be accessed by Order of the Court.)

All Petitioner's are required to obtain a new set of fingerprints for the Expungement process. The Police Department will fingerprint the Petitioner as requested. Upon obtaining the set of fingerprint cards, the Police Department will forward the Petition for Expungement with the set of Fingerprint cards to the State Police to perform a criminal history check

VIRGINIA CODE SECTION:

Expungement of police and court records - §19.2-392.2

DOCUMENT TYPE: PETITION FOR EXPUNGEMENT

REQUIRED DOCUMENTS:

- ❑ **An original Petition for Expungement of Record and a certified copy of the charge with the disposition of the charge(s) that is requested to be Expunged.**
- ❑ **Four additional copies of the Petition for Expungement and charge(s) with disposition of the charge(s) that is requested to be expunged.**
The copies will be for the following:
 - 1. One copy to be Attached to Subpoena in Chancery to serve on the Commonwealth Attorney.**
 - 2. Three copies will be returned to the petitioner to do the following:**
 - Two of the date stamped copies with attachments are to be taken to the Fairfax County Police Department with one copy to be attached to a complete set of petitioners fingerprints and the other copy to be retained by the Police Department.**
 - The remaining set is for the Petitioner to retain with their records for proof of filing with the Court.**
- ❑ **Order of Expungement**
- ❑ **A self addressed stamped envelope for the return of the fingerprint cards and a certified copy of the final order.**

FINGERPRINT CARDS:

All Petitioner's are required to **obtain a new set of fingerprints** for the Expungement process. ((See §19.2-392.2(E &F) The petitioner shall obtain from a law-enforcement agency one complete set of their fingerprints and shall provide that law-enforcement agency with two copies of the **date stamped petition** showing proof that a petition for Expungement has been filed with a Circuit Court.

Upon obtaining the set of fingerprint cards, the Police Department will forward one copy of the Petition for Expungement with the set of Fingerprint cards to the State Police to perform a criminal history check. The State Police will then forward the criminal record check under seal to the Court. One copy of the Petition for Expungement will be retained at the local Police Department.

The fingerprint card may be obtained from:

Fairfax County Police Department

10600 Page Ave.

Fairfax, Virginia 22030

Monday – Friday 8:00 a.m. – 4:00 p.m.

703-246-2272

Costs of Fingerprint card: \$5.00 payable by cash or check

Two forms of identification with Name & Date of Birth

One form of identification must be photo identification

Once the Criminal History Check has been filed with the Court, a hearing may be set.

JURISDICTION:

The Petition with a copy of the warrant or indictment if reasonably available shall be filed in the Circuit Court of the county or city in which the case was disposed of by acquittal or being otherwise dismissed and shall contain the following:

- ☐ **File Number**
- ☐ **Date of Arrest**
- ☐ **Name of Arresting Agency**
- ☐ **Specific Charge to be Expunged**
- ☐ **Date of Final Disposition of the Charge to be Expunged**
- ☐ **Petitioners Date of Birth**
- ☐ **Petitioners Social Security Number**
- ☐ **Full Name used by Petitioner at the time of arrest**
- ☐ **Indicate if the Petitioner has any prior criminal record**

For unavailable records that are over ten (10) years old, a destruction letter must be obtained from the Court in which the disposition was rendered.

FILING OF PETITION FOR EXPUNGEMENT:

The Petition for Expungement and other required documents may be filed in person or by mail to:

**Fairfax County Circuit Court
Attention: Civil Intake 3rd Floor
4110 Chain Bridge Road
Fairfax, Virginia 22030**

The filing fee and service fees must be paid at the time of filing. The Petition will be assigned a Chancery case number.

FILING AND SERVICE FEES:

FILING FEE: \$64.00

SERVICE: \$12.00 for Sheriff Service

Payment is to be made by cash, money order or cashiers check payable to the Clerk of the Circuit Court. No personal checks are accepted.

DOCUMENT TO BE SERVED ON THE COMMONWEALTH ATTORNEY:

The Petition for Expungement must be served on the Commonwealth Attorney with a Subpoena in Chancery. (Rule 2:4) (§19.2-392.2(D))

The Commonwealth Attorney may file an answer or objection within twenty-one days of service or may simply endorse petitioner's order of Expungement.

SETTING A HEARING DATE:

Once the Commonwealth Attorney has been served and the twenty-one (21) day period, from the date of service has lapsed, and the Court has received the criminal history record information from the Central Criminal Records Exchange a hearing date may be set. Expungement cases are heard on the Circuit Court Criminal Docket Monday through Thursday at 10:00 am.

An original “**Notice of Hearing**” must be filed with the Criminal Docket Clerk. You may appear in person or mail the original “Notice of Hearing” to:

**Fairfax County Circuit Court
Attention: Criminal Docket Clerk - 4th floor
4110 Chain Bridge Road
Fairfax, Virginia 22030**

A copy of the Notice of Hearing must be mailed or hand delivered to the Commonwealth Attorney’s Office at least three days’ prior to the hearing date to:

**Commonwealth Attorney’s Office
4110 Chain Bridge Road, Room 123
Fairfax, Virginia 22030**

***You must appear in Court on the date that your case is set to
be heard.***

Upon entry of the final order either granting or denying the Petition for Expungement, the clerk shall mail a certified copy of the final order to the petitioner in the self addressed stamped envelope provided at the time of filing of the petition.

If the Petition for Expungement is granted, upon entry of an Order of Expungement, the clerk of the court shall cause a copy of such order to be forwarded to the Department of State Police, which shall pursuant to rules and regulations adopted pursuant to §9.1-134, direct the manner by which the appropriate Expungement or removal of such records shall be effected. The Clerk will then return the fingerprint card to the Petitioner.

(This form must be filed with the Criminal Docket Clerk (4th) floor and the Commonwealth's Attorney (1st Floor Room 123)
at least 3 days prior to the hearing date.)

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

Petitioner

Versus

CHANCERY NUMBER _____

COMMONWEALTH OF VIRGINIA

NOTICE OF HEARING

PLEASE TAKE NOTICE that on the _____ day of _____,
200_____, at _____ a.m. the Petitioner will hereby move this Honorable Court
for an Order of Expungement as set forth in the Petition for Expungement.

Petitioner/Attorney (Signature)

Petitioner/Attorney (Print)

Address

(_____) _____
Daytime Telephone Number

Attorney VSB No.

Certificate of Service

I hereby certify that a true copy of this notice was mailed / hand delivered to the
Commonwealth Attorney's Office for Fairfax County, 4110 Chain Bridge Road, Fairfax,
Virginia 22030, on the _____ day of _____, 200_____.

Petitioner/Attorney (Signature)